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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/065,472	10/22/2002	Felice DiMascio	HAT-0003	5655 7
23413	7590	11/19/2003		
CANTOR COLBURN, LLP 55 GRIFFIN ROAD SOUTH BLOOMFIELD, CT 06002				
EXAMINER VALENTINE, DONALD R				
ART UNIT		PAPER NUMBER		
1742				

DATE MAILED: 11/19/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/065,472

Applicant(s)

DIMASCIO, FELICE

Examiner

Donald R. Valentine

Art Unit

1742

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-81 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1, 2, 7, 9, 10, 15, 17-20, 25, 29, 32, 39, 40, 45, 46, 48, 49, 58, 62, 63, 65-67, 70-72, 75 and 76 is/are rejected.
- 7) ☒ Claim(s) 3-6, 8, 11-14, 16, 21-24, 26-28, 30, 31, 33-35, 41-44, 47, 50-57, 64, 68, 69, 73 and 74 is/are objected to.
- 8) ☒ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 22 October 2002 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. §§ 119 and 120**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.  
a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 7
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

## DETAILED ACTION

### *Claim Rejections - 35 USC § 102*

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

- a. Claims 1-2, 7, 9-10, 15, 17-20, 25, 29, 32, 39-40, 45-46, 48-49, 62-63, 65-67, 70-72, 75-76, and are rejected under 35 U.S.C. 102(b) as being anticipated by Cawlfeld et al.

Cawlfeld et al teach an electrolytic cell comprising the elements of claim 1, namely an anode, a cathode and a particulate catalyst material. Caulfield et al further teach an electrolytic cell comprising the elements of claim 9, namely, an anode compartment comprising an anode and a catalyst material, and a cathode comprising a cathode compartment. (See col. 4, lines 34-65, col. 6, lines 5-41 and col. 11, lines 1-50).

The reference does not recite a “reactor” per se, however, the electrochemical cell of the reference is being considered a “reactor” as this structure contains the reagents involved in a reaction. A three-compartment cell is shown to produce chlorine dioxide. (See also example 11).

The reference does not recite “chlorite”, however chlorine dioxide appears to be a product formed by the reference and applicant’s apparatus appears to be similarly configured to prepare the same product.

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Further, statements of intended use are not given weight when determining the patentability of apparatus claims.

As for claim 17, Caulfield et al show a central compartment. See Example 1, col. 12.

The catalytic material of applicant's claim 62 appears to be disclosed at col. 6, lines 15-28 of Caulfield et al.

#### ***Allowable Subject Matter***

2. Claims 36-38, 59-61, 77-81 are allowed.
3. Claims 3-6, 8, 11-14, 16, 21-24, 26, 27-28, 30-31, 33-35, 41-44, 47, 50-57, 64, 68-69, and 73-74 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.
4. The following is a statement of reasons for the indication of allowable subject matter:  
The references of record do not show or suggest an electrolytic reactor which comprises an anode, a cathode and a particulate catalyst material supported on ceramic.

#### ***Conclusion***

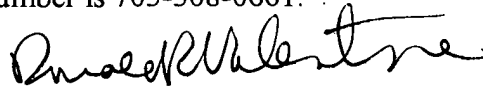
The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. White shows an electrolytic cell with particulate catalyst material. Falgen et al show an electrolytic reactor for producing chlorine dioxide.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Donald R. Valentine whose telephone number is 703-308-3327. The examiner can normally be reached on Monday-Friday 9:30-6:00.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Roy King can be reached on 703-308-1146. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9310.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0661.



Donald R. Valentine  
Primary Examiner  
Art Unit 1742

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November 17, 2003